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**IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION**

JEFFREY SCHULKEN AND JENIFER
 SCHULKEN, individually and on behalf of a
 class of similarly situated individuals,
 Plaintiff,
 v.
 WASHINGTON MUTUAL BANK,
 HENDERSON, NEVADA; JPMORGAN CHASE
 BANK, N.A.,
 Defendants.

) CASE NO. 5:09-cv-02708-LHK
)
) **STIPULATION AND PROPOSED**
) **ORDER REGARDING EXTENSION**
) **OF TIME FOR DEFENDANT**
) **CHASE TO PROVIDE CLASS LIST**
) **AND FOR PARTIES TO FILE**
) **STIPULATED CLASS NOTICE**
)
) Judge: Hon. Lucy H. Koh
)

As Modified by the Court

1 WHEREAS, on January 5, 2011, the Court entered an Order Granting in Part and
2 Denying in Part Motion to Certify Class Action (the "Order"), which required (i) Chase to
3 produce a class list to Plaintiffs' Counsel within 21 days of the Order, January 26, 2011; and
4 (ii) the parties to file a stipulated class notice within 21 days of the Order, January 26, 2011.
5 In this Stipulation, as described below, (i) Chase seeks an extension of time to provide the
6 class list because of difficulties identifying class members, a request that plaintiffs do not
7 oppose; and (ii) the parties seek an extension of time to agree on a joint stipulated class
8 notice. This Stipulation is made in good faith and not for the purposes of delaying the
9 litigation.

10
11 **(i) Class List**

12 WHEREAS, as set forth in the attached Lutchman Declaration, despite diligent
13 efforts, Chase has been unable to identify the members of the Inability to Verify Class or the
14 TILA Notice Subclass and requests additional time to review its records and provide the class
15 list. The Inability to Verify Class certified in the Order includes heritage WaMu customers
16 whose HELOC contracts state that the borrower must provide, upon the lender's request "a
17 current financial statement, new credit application, or both." Order p. 23. While Chase can
18 identify heritage WaMu customers, several heritage WaMu HELOC contracts do not have
19 the class language. Chase's efforts to identify class members with database queries have
20 identified approximately 23,000 potential heritage WaMu class members, but this number
21 includes HELOC agreements that do not have the class language. Chase is attempting to
22 locate WaMu records regarding when each of the various heritage WaMu HELOC contracts
23 was used, and to determine any other methods of systematically identifying class members.
24 In the event these efforts are not successful, Chase will have to engage in a file by file review
25 of HELOC agreements to determine which of the approximately 23,000 potential class
26 members have the class language. This effort will involve identifying and pulling the 23,000
27 HELOC contracts for the potential class members. Some accounts have the HELOC
28

1 contracts separately identified, while for others, identifying the HELOC contract will involve
2 a page-by-page review of imaged loan files. After identifying the contracts, Chase will have
3 to engage additional personnel to review and categorize the accounts with the class language.
4 Chase estimates that it will take 5 to 10 minutes per account to identify and review the
5 HELOC contracts. Because Chase has been unable to identify the members of the Inability
6 to Verify Class, it has been similarly unable to identify the TILA Notice Subclass and
7 identifying the subclass will also involve additional efforts. Of the approximately 23,000
8 potential class members, there are also approximately 3,600 borrowers whose accounts were
9 suspended after review under the 4506-T program, and those accounts that are confirmed to
10 be members of the Inability to Verify class will have to be reviewed individually to
11 determine whether those borrowers were ever subject to prior suspensions for incomplete
12 responses, which would make them members of the TILA Notice Subclass. Chase estimates
13 that the review for the TILA Notice Subclass would take approximately 5 minutes for each
14 individual borrower's account to make this determination.
15

16 WHEREAS, given these difficulties in identifying class members, Chase requests that
17 the Court vacate the January 26, 2012 deadline for identifying class members and allow
18 Chase to report to the Court on the status of the progress of identifying class members at the
19 scheduled February 15, 2012 Case Management Conference. Chase continues to devote
20 substantial resources to completing this project, but cannot determine how long this process
21 will take until it determines whether individual reviews of thousands of loan files are
22 required to identify class members.
23

24 WHEREAS, without stipulating to the facts in the Lutchman Declaration or as stated
25 above, Plaintiffs do not oppose Chase's request for an extension of time to provide the class
26 list;
27
28

(ii) Joint Stipulated Class Notice

WHEREAS, the parties continue to work on a joint stipulated class notice. Plaintiffs provided a draft notice on January 24, 2012, which Chase is reviewing. The parties hope to agree on a draft, and to work out any differences regarding style or substance and avoid briefing on the class notice. The parties request that the Court vacate the January 26, 2012 deadline for the parties to file a joint stipulated class notice and allow the parties to submit a proposed stipulated class notice with their Joint Status Report for the scheduled Case Management Conference on February 15, 2012.

Respectfully submitted,

Dated: January 25, 2012

By: /s/ Sean P. Reis

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Dated: January 25, 2012

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ORDER

the parties shall file a joint stipulated class
notice, along with a joint case management
statement by February 8, 2012.

Pursuant to the stipulation,
IT IS SO ORDERED.

Dated: January 27, 2012


UNITED STATES DISTRICT JUDGE LUCY H. KOH

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